

REMARKS

This is a continuation application. Upon entering this amendment, claims 1, 8-14, 16-21, 23-28, 31, and 32 will be pending in this case. Claims 1, 8, 11, 18, and 32 have been amended. As for those claims rejected in the parent case (i.e. 1, 8-28 and 31-32), Applicants submit the following comments.

In the parent case, the Examiner rejected claim 11 under Section 112 for lacking antecedent for the term “second port”. Applicants have amended claim 11 to clarify the second port as the exhaust port as recited in base claim 1.

Also in the parent case, the Examiner rejected independent claim 1 as being anticipated by U.S. Patent No. 5,669,464 to Earleson. Referring to FIG.2, the Earleson system includes a first flow control means 30 in the form of a 2-position, 4-way valve that is in communication with a pair of conduits 38, 40 which are connected to first and second pumps 46 and 48, respectively. The valve includes a first position 32 wherein fluid may be transported through a first path from the reservoir 16 to the engine lubricating system 26 under the influence of pump 48 through conduit 40. Also, when the valve is in this first position, fluid may be transported from second reservoir 14 to the intake oil system 24 through conduit 38 through pump 46. The valve also includes a second position 34 wherein these fluid paths may be swapped for one another.

It is evident from reviewing FIG. 2 that the Earleson system includes two discrete paths from the first reservoir 14 to the oil intake and bearing lubricant systems 24 and 26, respectively. The valve 32 thus requires two fluid outlets connected to conduits 38 and 40, respectively. Because the Earleson system must supply oil from one of the two reservoirs to one of the oil intake or bearing lubricant systems separately, two distinct paths must be used adding complexity to the valve 32.

Applicants have amended claims 1 and 8 to clarify their invention by reciting that the dump/supply valve includes a single fluid expelling outlet. The dump/supply valve is

a two-position valve with two inlets and one outlet. The use of this particular valve structure enables the ability of service technician to supply fresh fluid from the new fluid tank 42 to the exhaust port 32 or dump used fluid from the used fluid tank 40 to the exhaust port using a single common pump 24. Applicants submit that this feature is not taught in the Earleson patent.

Moreover, the Earleson patent teaches against servicing a automobile fluid containing subsystem. Applicants respectfully point out that the Earleson system for automatically controlling engine lubrication fluid flow is a system for eliminating the need to change and dispose of contaminated engine lubricant fluid in an engine system including both intake oiling and bearing lubricating systems (see col. 1, ll. 6-12 and col. 7, ll. 5-10). This is completely at odds with the present invention. Amended claim 1 and its dependent claims distinguish over the Earleson patent.

As a further example, Applicants further submit that contrary to the Examiner's contention in the parent case, the Earleson does not disclose a dump/supply valve that is a two position, 3-way solenoid valve (see col. 3, ll. 42 – first valve 36 is a two position, four way valve). Thus, original claim 16 is not anticipated by the Earleson patent for these reasons as well.

Claims 18 and 31:

The Examiner rejected claims 18 and 31 as being anticipated by U.S. Patent No. 6,374,872 to Tarabocchia in the parent case. Amended claim 18 distinguishes over the Tarabocchia patent. Claim 18 has been amended to recite that the pump is disposed inline with said common passage between said valving component and said exhaust port and operable to direct a fluid through said supply and drain paths to said exhaust port.

In contrast, the Tarabocchia patent discloses a pump 68 as a second source of introducing fluid from outside the apparatus 26 in an external fluid supply 66 and into the

apparatus for temporary storage in a variable sized chamber 52 (see col. 6, ll. 10-24).

Claim 18 and its dependent claims distinguish over the Tarabocchia patent.

Regarding claim 31, Applicants respectfully submit that Tarabocchia does not disclose, as the Examiner contended in the parent case, a second flow diverting means about 72. In Tarabocchia, the element 72 refers to a line which includes a flow valve 74 for introducing fresh fluid from the fluid reservoir 66 under pressure into chamber 52 (see col. 6, ll. 25-36). The Examiner also previously characterized element 32 about where 48 is connected in FIG. 1 as the exhaust port, the fresh fluid supply port as 32 where 64 connected, and the used fluid port as the connecting point about 54.

Original claim 31, however, recites a second flow diverting means for selectively diverting fluid from the used fluid port or the fresh fluid port to the exhaust port. This is described in the present specification as a two-position, three way dump/supply valve 84 (FIG. 6). In contrast to line 72 and valve 74 pointed out by the Examiner which directs fluid from a new fluid reservoir 66 into a fresh fluid compartment 52 in the apparatus, the second flow diverting means recited in claim 31 directs flow from either a used fluid port or new fluid port out of the apparatus through exhaust port 32. Thus, the second flow diverting means functions to divert flow in the opposite direction. Applicant submits that the Tarabocchia patent does not disclose the second flow diverter means as recited in claim 31.

In addition, the pump 68 in the Tarabocchia patent is used as an alternative method to introduce new fluid into the new fluid chamber 52 initially, that is, from an external source 66 into the apparatus for temporary storage therein. The pumping means in the present invention however draws fluid from the new fluid supply tank into the manifold and forces it out the exhaust port and into the transmission connected thereto. The pumping means moves fluid in the opposite direction as the pump in the Tarabocchia patent.

Rejections under 35 U.S.C. §103 from the parent case

As an initial matter, Applicants submit that the Earleson patent fails as a primary reference and would not be looked to for providing a solution as in the present invention which is constructed to exchange fluid with a vehicular subsystem and dispose of the old oil. Applicants respectfully point out that the Earleson system for automatically controlling engine lubrication fluid flow is a system for eliminating the need to change and dispose of contaminated engine lubricant fluid in an engine system including both intake oiling and bearing lubricating systems (see col. 1, ll. 6-12 and col. 7, ll. 5-10). This is completely at odds with the present invention which is constructed to remove old contaminated fluid from a vehicular system such as a transmission system and replace the old fluid with a like amount of new fresh fluid. It is even more unlikely that the other references relied upon by the Examiner would be combined with the Earleson patent.

Moreover, even if the teachings of these references could be properly combined, the differences between the Earleson system and that of the present invention with respect to claim 1 apply as well. For example, the Earleson system is constructed to allow the fluid from the bearing lubricant system 26 to drain into either into the first or second reservoirs 14 and 16, respectively depending on the position of valve 56. This would permit contaminated used fluid into either reservoir (see col. 4, ll. 9-14 and col. 5, ll. 51-55). Thus, fluid that is returned to the reservoirs 14, 16 from the bearing lubricating system is also supplied to the bearing lubricating system 26. The makeup fluid from reservoir 71 is added to either of the used fluid reservoirs 14 or 16. The Earleson system includes two supply fluid reservoirs 14, 16 that can receive used fluid, and a makeup fluid reservoir 71. In contrast, the fluid circuit of the present invention does not allow used fluid to enter into the new fluid tank 42. This concerns claim 11 as well. Earleson was relied upon as a primary reference in rejection claims 11-14 in the parent case.

In the parent case, the Examiner rejected independent claims 18 and 32 as unpatentable over U.S. Patent No. 4,703,773 to Hansen. The Hansen patent is directed to a valving arrangement with at least two diaphragms for use with a nozzle burner of a heating oil pump. However, the Hansen patent does not disclose a drain path for directing fluid entering a return port to a used fluid port. As the Examiner contended in the parent case, the return port was designated 15 and the used fluid port was designated 19 in FIG. 1 of the Hansen patent. However, as explained in the Hansen patent, fluid entering at connection 9 flows through line 11 and if the valve 7 is open may be directed to line 14 and out of return connection 15. This is the opposite flow direction recited in claim 18 in which fluid entering the return port is directed to the used fluid port. In addition claim 18 has been amended to recite that the inline pump is disposed in the fluid circuit between the valving component and the exhaust port. This is clearly not shown or suggested in the Hansen patent nor would it be desirable as a pump in such a location in the Hansen patent would not be able to direct fluid flow back to the port 15. Claim 23, 26-28 depend from claim 18 and is believed to distinguish over the Hansen patent as well.

Regarding claim 32, amendments have been made reciting the addition of a second filter coupled to a second filter aperture and operable to filter fluid passing through the second pathway. This feature in combination with the other features recited in claim 32 is not shown nor suggested in the Hansen patent as there is no filter placed between port 19 and 20 in the Hansen device.